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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,858	06/21/2006	Mitsunori Miki	IRD-0017	4120

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EXAMINER	
SWARTHOUT, BRENT	
ART UNIT	PAPER NUMBER
2612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/583,858	MIKI, MITSUNORI	
	Examiner	Art Unit	
	Brent A. Swarthout	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-7,9,11,12 and 17* is/are allowed.

6)☒ Claim(s) *1-4,8,10,14 and 36-40* is/are rejected.

7)☒ Claim(s) *13,15,16 and 18-35* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6-21-06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. Claims 13,37,38,39 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13 "the selection information", "the light intensity setting information", and "the comparison result" all have no antecedent basis.

In claim 37, line 3 "the convergence" has no antecedent basis.

In claims 38-40, it is unclear how a light source or lighting device or local device can constitute a lighting control system as claimed, since the claimed system comprises at least a local light control and a separate lighting unit, with all necessary transmission, reception and control elements.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischmann in view of Kohar et al.

Fleischmann discloses a lighting control system comprising plural lights 12, a local device 20 with inherent transmission portion for transmitting lighting control instructions (Fig. 1; col. 3, lines 55-65), a receiver portion 26 which receives the transmitted light intensity control instruction and uses such instruction to control means 28 to control the intensity of light 12 (col. 5, lines 20-30), the lighting device to be controlled being specified by use of a selection ID (col. 3, lines 55-60), wherein the

control means controls light intensity based on the instruction information transmitted by local device (col. 3, line 61), except for specifically stating that receiver is at a light location.

Kohar teaches desirability in a system for remotely controlling lights of having receivers at the light locations (Fig. 1; col. 5, lines 50-55).

It would have been obvious to utilize receivers at lighting locations as suggested by Kohar in conjunction with a system as disclosed by Fleischmann, in order to allow light units to be directly contacted without having to use hardwiring, thus saving on installation costs in buildings where it was desired to retrofit a lighting control system.

Regarding claim 2, Kohar teaches desirability of using optical signal (col. 4, lines 52-62) and directional characteristics of signal transmission/reception (col. 4, lines 58-65).

Regarding claim 3, Fleischmann teaches desirability of setting light intensity (abstract).

3. Claims 4,8,10, 14,36,37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischmann in view of Kohar et al. and O'Dell.

Fleischmann and Kohar disclose a lighting control system as set forth above, except for specifically stating that comparison is made between desired target illumination level and actual illumination level in order that lighting level can be adjusted.

O'Dell teaches desirability in a lighting control system of comparing desired light level with actual light level in order that light control can adjust the level of light to a desired level (col. 1, line 65- col. 2, line 10).

It would have been obvious to use actual intensity level comparison with desired intensity level in order to allow a control to adjust intensity to desired level as suggested by O'Dell in conjunction with a lighting control system as disclosed by Fleischmann and Kohar, in order to allow light to be maintained at desired levels.

Regarding claim 10, Kohar teaches use of optical transmission signals (col. 4, line 56).

Regarding claim 36, Fleischmann teaches outputting lighting information on a display 54.

Regarding claim 37, since O'Dell teaches that stored illumination data is compared to sensed data (col. 3, lines 58-67), choosing to store light intensity at a particular moment would have been obvious, merely depending on what desired lighting level was for a desired light source. Choosing to reproduce intensity value of a light would have been obvious in order to allow a system programmer to adjust light levels as needed.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 4,8,10,14,36 and 37 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3 of copending Application No. 10/567,081 in view of Fleischmann and Kohar et al. Copending claims disclose a lighting control system where a sampled illumination is compared with a target illumination, and if they are different the light is controlled to correspond with the target level.

It would have been obvious to use illumination adjustment as suggested by the copending claims in conjunction with a lighting control system as disclosed by Fleischmann and Kohar, in order to allow lighting in a building to be controlled to a desired level of illumination.

This is a provisional obviousness-type double patenting rejection.

5. Claims 5-7,9,11,12 and 17 are allowed.

6. Claims 13,15,16 and 18-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adamson, Conley, Ling, Melnik, Lyons and Jednacz disclose lighting control systems.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A. Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-Th from 6:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Lee, can be reached on 571-272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Brent A Swarthout/
Primary Examiner, Art Unit 2612

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Primary Examiner
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